

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

MAR 4 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Interconnection Between Local Exchange)
Carriers and Commercial Mobile Radio)
Service Providers)

CC Docket No. 95-185

To: The Commission

DOCKET FILE COPY ORIGINAL

COMMENTS OF THE POKA LAMBRO TELEPHONE COOPERATIVE

The Poka Lambro Telephone Cooperative ("Poka Lambro"), pursuant to Section 1.415 of the Commission's Rules¹ and in response to the Notice of Proposed Rulemaking issued by the Commission on January 11, 1996,² respectfully submits its comments with respect to the above-referenced proceeding and the Commission's proposal to mandate "bill and keep" compensation arrangements among interconnecting carriers.

Poka Lambro provides basic telephone exchange service to rural subscribers in the vicinity of Tahoka, Texas, a rural area of West Texas. In accordance with the Commission's authorization, Poka Lambro also provides wireless radio common carrier services and anticipates the continuation of its participation in the provision of Commercial Mobile Radio Services (CMRS). Accordingly, Poka Lambro respectfully offers the Commission the perspective of a

¹/ 47 C.F.R. § 1.415.

²/ In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket No. 95-185; Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers, CC Docket No. 94-54, Notice of Proposed Rulemaking ("Notice"), released January 11, 1996. By Order and Supplemental Notice of Proposed Rulemaking released in this docket on February 16, 1996, the comment period was extended to March 4, 1996.

No. of Copies rec'd
List ABCDE

074

rural carrier that has and will participate on both ends of the interconnection between landline service providers and CMRS providers.

I. The Commission's Established Interconnection Policies Do Not Require Revision.

In its capacity as both a landline provider and CMRS provider, Poka Lambro is familiar with the technical, operational, and economic aspects of interconnection. Regardless of the fact that mandatory bill and keep arrangements have an innate "quick-fix" appeal to wireless service providers, Poka Lambro is concerned that requiring this type of compensation arrangement, even on an interim basis, may have long term adverse consequences for both landline and CMRS providers.

Poka Lambro understands and has adhered to the Commission's well established interconnection policy for landline and radio common carrier service providers which was determined and set forth in a series of order issued in the Commission's proceeding captioned "In the Matter of The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services (Cellular Interconnection Proceeding)." This policy established negotiated mutual compensation as the basis for interconnection arrangements between landline and radio common carrier service providers. With respect to Poka Lambro's experience as both a rural landline and cellular service provider, the established policy has well served the rural cellular industry in its

development.

There is no apparent factual basis to warrant departure from the established policy at this juncture. Since a mandated "interim" bill and keep arrangement was not necessary for the development of the cellular industry, it is not surprising that there is no factual need to impose this mechanism at this time. The only basis for implementing mandatory bill and keep is apparently the short term business interests of those parties whose comments and ex parte presentation are cited in the NPRM as support for it.

II. Mandatory Bill and Keep Will Adversely Affect Small Rural System Providers.

On a short term basis, Poka Lambro's immediate business interests may also be served by the imposition of mandatory bill and keep compensation arrangements by reducing the costs of interconnection with other landline carriers of its existing cellular and proposed PCS businesses. Poka Lambro recognizes, however, that the potential for short term gain does not justify an inappropriate arrangement. Moreover, the sanctioning of mandatory bill and keep for short term gains today could establish harmful precedents that will adversely impact the long term interests of Poka Lambro and other small rural landline and CMRS service providers.

Mandatory "bill and keep" loses its appeal when consideration is given to the prospect of utilizing this "interim" arrangement as a basis for other interconnection arrangements

between various classes of carriers. The reassurance that this proposal would only be applied for a "brief" period between landline and CMRS providers is void of substance in a technology "neutral" regulatory environment.

The underlying fallacy of mandatory bill and keep is that it disregards principles of mutual compensation based on cost recovery. Mandatory bill and keep is not required on even an interim basis to foster interconnection between landline and CMRS providers. CMRS providers can obtain immediate technical interconnection for an interim period in accordance with a landline carriers established interconnection arrangements when agreements are not reached on a timely basis. To the extent necessary, the compensation under the interim arrangement can be "trued-up" in accordance with final arrangements reached pursuant to negotiation and/or arbitration.

If a mutual compensation agreement reached through negotiation or arbitration properly reflects the carriers' respective costs, there will be no basis for discrimination or potential for "market power" to impede competition since each carrier's costs will also be reflected in the rates charged their respective end users. A bill and keep arrangement should certainly be permitted - but not mandated - between two interconnecting carriers when it is justified by the costs of providing service to one another and other significant factors, such as volumes of exchanged traffic.

Poka Lambro recognizes and is concerned that other small rural CMRS providers may be lured to support mandatory bill and keep,

attracted by the rhetoric of new CMRS entrants and the allure of short term financial gain. It is, however, the small rural system providers that will experience long term adverse effects from the imposition of mandatory bill and keep. Small rural system providers have made and will continue to make significant investment in rural telecommunications infrastructure, both landline and wireless.

Mandatory bill and keep arrangements essentially will inappropriately offer large urban system providers the opportunity of utilizing the investment of the small rural system for free. If mandatory bill and keep arrangements are legally sustainable, and the Commission remains intent to adopt this proposal, the proposal should not be imposed even on an interim basis on rural telephone companies. Subsequently, if the implementation of mandatory bill and keep is utilized as a precedent to apply to interconnection between CMRS providers, it should similarly not be imposed upon small rural system providers.

III. The Telecommunications Act of 1996 Does Not Permit Mandatory Bill and Keep.

Poka Lambro respectfully submits, moreover, that the enactment of the Telecommunications Act of 1996 clarifies the fact that mandatory bill and keep arrangements are not legally sustainable. Sections 251 and 252 of the 1996 Act require negotiated arrangements with mutual, reciprocal cost recovery. Where negotiations are not concluded within 135 days, the 1996 Act

authorizes the state commission to conduct arbitration between the carriers. The 1996 Act allows carriers to enter into bill and keep arrangements through the negotiation and arbitration process, but they can not be mandated to do so.

CONCLUSION

Poka Lambro respectfully submits that on the basis of public policy and established principles, mandatory bill and keep arrangements should not be adopted; and that on the basis of the legislative mandate set forth in the Telecommunications Act of 1996, the Commission should now clearly reject this proposal.

Respectfully submitted,

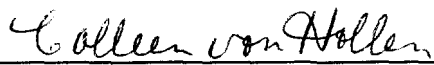
POKA LAMBRO TELEPHONE COOPERATIVE, INC.

By: Mickey L Sims /evh
Mickey Sims, General Manager and CEO
Poka Lambro Telephone Cooperative, Inc.
P.O. Box 1340
Tahoka, Texas 79373-1340

March 4, 1996

CERTIFICATE OF SERVICE

I, Colleen von Hollen, hereby certify that a copy of the foregoing **"Comments"** on behalf of the **Poka Lambro Telephone Cooperative, Inc.** in CC Docket No. 95-185 was served on this 4th day of March 1996, by hand delivery, to the following parties:


Colleen von Hollen

Kathleen M.H. Wallman, Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW, Room 500
Washington, DC 20554

Mr. David Sieradzki
Policy & Program Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW, Room 534
Washington, DC 20554

Ms. Kathleen Franco
Policy & Program Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW, 5th Floor
Washington, DC 20554

Ms. Janice Myles
Policy & Program Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW, 5th Floor
Washington, DC 20554

International Transcription Services, Inc.
1919 M Street, NW, Room 246
Washington, DC 20554